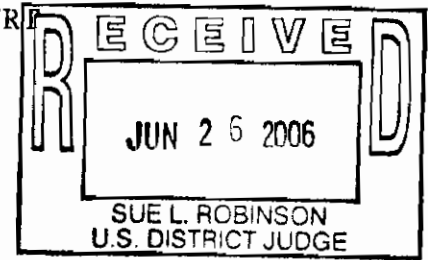


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE



UNITED STATES OF AMERICA, :
Plaintiff, :
 :
V. : Criminal No.: 05-CR00083-C01(SLR).
 :
DAVID DONALDSON :
Defendant. ;

MOTION TO CALL THE COURT TO RETAIN JURISDICTION

AND NOW COMES the Defendant respectfully moves the Honorable Court under Rule 35 of the Federal Rules of Criminal Procedure to permit him to file a Motion to Correct or Reduce his Sentence out-of-time, which should have been filed not later than Seven Days after Sentence. In support thereof avers:

(a) The Defendant wants to rely on the Court in Eberhart v. United States, U.S. No. 04-9949, 10/31/05 (Although issue was predicate of a Rule 33 Seven-Day Deadline for filing Motion for New Trial Isnt Jurisdictional) (The Supreme Court in Per curiam opinion, held that the characterization of the time limit as jurisdictional was mistaken, though understandably so). So analogous in the instant case, the Defendant respectfully states that his neglect was excusable and based improper advise by counsel and until a pro se help so instruct and thus, become this Motion.

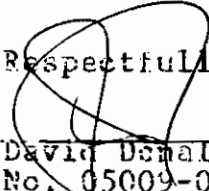
WHEREFORE, defendant prays the court grants this Motion.

Dated. 6/26, 2006.

cc: Shannon Thee Hanson.

Pro Se Help (G. Awala).
See (Shawn v. Murphy)
532 US 223(2001).

Respectfully submitted,


David Donaldson
No. 05009-015
Federal Detention Center
P.O. Box 362
Philadelphia, PA 19105

David Donaldson
05609-015
Federal Detention Center
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Legal mail:

Hon. Sue L. Robinson
United States Chief Judge
United States District Court
for the District of Delaware
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